IN THE HIGH COURT OF UTTARANCHAL AT NAINTIAL.

Writ Petition No. 1073 (S/S) of 2006

Prakash Chandra Masiwal,
Junior Assistant,
District Army Welfare and
Rehabilitation Officer,
Nainital (Haldwani). **……Petitioner**

Versus

1. State of U.P. through the Secretary, Army Welfare and Rehabilitation, Uttaranchal.
2. Director, Army Welfare and Rehabilitation, Uttaranchal, Chandel Bhawan, Anjali Vihar, Ajabpur Kala, Dehradun.
3. District Army Welfare and Rehabilitation Officer, Nainital, District – Nainital (Haldwani).

……..Respondents

Hon'ble M.M. Ghildiyal, J.

Heard Sri D.S. Mehta, learned counsel for the petitioner and learned standing counsel for respondents.

Learned counsel for both the parties are agree to decide the writ petition at its admission stage itself.

By mean of this writ petition, the petitioner has prayed for the following reliefs:

(a) Issue a writ, rule order or direction in the nature of Certiorari calling for the records and quashing the impugned transfer order dated 24.06.2006 (Annexure No. 1) passed by respondent no. 2..

(b) Issue a writ, rule order or direction in the nature of Mandamus directing the respondents not to interfere in working of the petitioner as junior Assistant, District Army Welfare and Rehabilitation Officer, Nainital (Haldwani) till the pendency of present petition.

(c) *Issue any other order or direction, which this Hon'ble Court may deem fit and proper under the circumstances of the case.*

(d) *award the costs of the petition in favour of the petitioner*

Petitioner, who is working as Junior Assistant in the officer of District Army Welfare and Rehabiliation, Haldwani, Nainital, is aggrieved with transfer order dated 24.06.2006 passed by respondent no. 2 by which he has been from Nainital to Dehradun.

Petitioner has challenged the transferred order on the ground that his younger brother, who is posted in Indian Army at Jammu and Kashmir, has sustained serious injuries in terrorist attack and is still in coma in Military Hospital, Jammu since 13.06.2006 and petitioner is the only person to look after family of his younger brother before as well as his old parents, who are residing at Haldwani.

Petitioner has already preferred representation dated 26.06.2006 before respondent no. 2, which is Annexure No. 2 to the writ petition and the same is still pending.

Raising all her grievances, wife of petitioner's younger brother moved representation before Chief Minister, State of Uttaranchal for staying the transfer of the petitioner. Considering the special circumstances, according to the petitioner, Chief Minister, State of Uttaranchal has also recommended the matter, however, respondent no. 2 has yet not taken any decision on the representation of the petitioner.

In the circumstance stated above, I deem it fit and proper to direct the representation no. 2 to decide the representation of the petitioner dated 26.06.2006, Annexure no. 2 to the writ petition, by speaking order within a period of six weeks from

the date of certified copy of this order. Petitioner is also directed to supply the copy of this order within a period of one week from today. Till the decision is taken by the respondents no. 2 on the representation of the petitioner dated 26.06.2006, impugned transfer order dated 24.06.2006 passed by respondent no 2, so far it relates to the petitioner, shall be kept in abeyance.

With this direction writ petition is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J.)

August 07, 2006
SKSharma